

Remarks

Response to Restriction Requirement

In the Office Action mailed on October 5, 2006, the Examiner restricted the claims into four groups: Group I includes claims 1-13 and 91-92 drawn to a DNA vector; Group II includes claims 14-16 drawn to host cells; Group III includes claims 22-49 and 69-70 drawn to attenuated bacterial cells; and Group IV includes claims 93-98 drawn to expression systems. Applicants elect Group III including claims 22-49 and 69-70, with traverse. The Examiner further required election of one of the species of attenuated bacterial cells from claims 22 or 69 and one of the species of genes from claims 28 or 30. Applicants further elect *Salmonella spp.* and sse genes, with traverse.

Claims 1-16, 22-49, 69-70 and 93-98 Should be Rejoined Because They Share Unity of Invention

The above-referenced application is a divisional application of a national phase filing under 35 U.S.C. § 371. Therefore, PCT Rules Rule 13.1 and 13.2 must be applied instead of U.S. restriction practice. 37 C.F.R. § 1.499; see also MPEP § 1893.03(d). Applicants respectfully submit that the Examiner has incorrectly restricted the pending claims by applying U.S. restriction practice rather than the unity of invention standard.

Legal Standard

A group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature. The special technical features is defined as meaning

those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art.

Analysis

Claims 1-16, 22-49, 69-70 and 93-98 Share a Common Technical Feature

Claims 1-16, 22-49, 69-70 and 93-98 share the common technical feature of including at least one aspect of the Salmonella Pathogenicity Island 2 (SPI2) gene locus. Genes and gene products of the SPI2 gene locus can be used for example in the production of a vaccine. Claims 1-13 define nucleic acids and vectors encoding gene products of the SPI2 gene locus. Claims 14-16 define cells containing nucleic acids encoding gene products of the SPI2 locus.

Claims 22-49 and 69-70 define attenuated cells that have at least one gene of the SPI2 locus inactivated.

Claims 93-98 define expression systems for expressing specific gene products of the SPI2 gene locus.

As can be readily ascertained, all of the pending claims either encode products of the SPI2 gene locus, are products of the SPI2 gene locus, or are cells having at least one gene of the SPI 2 gene locus inactivated. Accordingly, claims 1-16, 22-49, 69-70 and 93-98 share unity of invention and the restriction requirement should be withdrawn.

With regard to election of specific bacteria and genes, Applicants submit that the species share unity of invention because they are so linked as to form a single general inventive concept

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under PCT Rule 13.1. The species of genes are all part of the SPI2 gene locus, and therefore share a common technical feature which links them to form a single general inventive concept.

With regard to the species of bacterial cells, the specific species of bacterial cell is irrelevant because the cell must contain the SPI2 locus. The requirement of containing the SPI2 locus is the shared technical feature that links the species and forms a single inventive concept.

Allowance of claims 1-16, 22-49, 69-70 and 93-98 is respectfully solicited.

Respectfully submitted,

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